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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

STRANGE, AARON N

ART UNIT

PAPER NUMBER

2153

MAIL DATE

DELIVERY MODE

09/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/039,047	FRIEDMAN, LEE	
	Examiner	Art Unit	
	AARON STRANGE	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,9,10,13,19,36 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,9,10,13,19,36 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/7/08 respect to the rejection(s) of claim(s) 6, 9, 10, 13, 19, 36 and 39 under 35 U.S.C. § 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bunker et al. (US 2003/0055594).

2. With regard to claim 10, Applicant has failed to adequately traverse the Examiner's taking of Official Notice. To adequately traverse a finding of Official Notice, *Applicant must specifically point out* the supposed errors in the Examiner's action, which would include *stating why the noticed fact is not considered to be common knowledge* or well-known in the art. In this case, Applicant has failed to do. Applicant's "request" for to provide a "basis" is not a statement indicating why the noticed facts are not common knowledge or well-known in the art. See MPEP § 2144.03 (C).

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification makes no reference to the term "machine readable medium", which appears in claims 36 and 39. Applicant must amend the

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specification to provide clear support or antecedent basis for the term, taking care to ensure that no new matter is introduced.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 9, 13, 19, 36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (US 6,693,912) in view of Bahadiroglu (US 2002/0186660) further in view of Huang (US 6,618,397) further in view of Bunker et al. (US 2003/0055594).

6. With regard to claims 6 and 13, Wang disclosed a method executed by multiple dispersed devices (Figure 1, gateways to between to the two end users) for adapting data received from a remote sending device in a single heterogeneous network (fig. 1) according to quality of service parameters associated with a plurality of network segments (e.g. each segment between the gateways in figure 1) that are downstream from the dispersed devices, comprising:

- receiving at the dispersed devices instructions, wherein the instructions instruct the dispersed devices to adapt the data (e.g. each network 2A, 3A,

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- 3B, and 2B is configured with their own QoS parameters that are used to adapt the data as it flows from network to network, see inter alia Col 3, lines 1-17 – “it will be assumed that each of these four network has a different QoS system,” Col 3, lines 56-61, Col 4, lines 5-14, and Col 5, lines 32-38 - “each network can introduce new QoS technology”);
- receiving the data from the remote sending device (e.g. the end nodes can send data to each other, Figure 1 and Col 4, lines 5-14);
 - adapting the data to conform to the quality of service parameters associated with each network segment downstream from the one of the dispersed devices therein adapting the data at the dispersed devices rather than adapting the data at the remote sending device wherein the dispersed devices are located between the remote sending device and the plurality of network segments (adapting to data to the QoS specifications of each network as it pass through each network, such as “traffic parameters and other QoS parameters,” (again refer to inter alia Col 3, lines 1-17, lines 56-61, Col 4, lines 5-14, and Col 5, lines 32-38),
 - transmitting the adapted data along each network segment to one of a plurality of segment endpoints where the segment endpoints (e.g. gateways and end user clients) comprise at least one recipient client and at least one sub-segment dispersed device that further adapts the data previously adapted to conform the data according to quality of service parameters associated with a network sub-segment adjacent and downstream from the at

least one of the plurality of segment endpoints comprising the sub-segment dispersed device; (again the data is further adapted as it pass through each network). ,

- wherein values for the quality of service parameters vary among the plurality of network segments (col. 3, ll. 1-17).

Wang failed to specifically recite requesting new programming for adapting the data upon detecting changes in the quality of service parameters for each network segment or implementing a compression mechanism in response to a determination that a packet size of the data exceeds a MTU of each network segment, or that the single heterogeneous network includes the specific plurality of sub-networks claimed, although Wang does teach that the single heterogeneous network comprises a plurality of sub-networks (fig. 1, 2A, 2B, 3A, 3B)(col. 3, ll. 1-10).

Bahadiroglu disclose a similar a system for transmitting data between sending and receiving nodes (abstract). Bahadiroglu teaches requesting new programming for adapting the data upon detecting changes in the quality of service parameters for each network segment (i.e. adjusting the packet size and inter-packet interval in real time according to bandwidth restrictions of the network segment such as latency, jitter and traffic conditions ¶ 71). This would have been an advantageous addition to Wang's system to ensure utilization of the available bandwidth is maximized (Bahadiroglu ¶71).

Huang also discloses a similar system for transmitting data between sending and receiving nodes. Huang teaches implementing a compression mechanism in response to a determination that a packet size of data to be transmitted exceeds a MTU of the

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network segment (GIEC packet is reduced in size if it exceeds the MTU for the network segment)(col. 13, ll. 11-20; col. 14, ll. 48-65). This would have been an advantageous addition to the system disclosed by Wang and Bahadiroglu since it would have prevented packets from being fragmented, reducing overhead in processing and bandwidth (Huang, col. 5, ll. 4-9).

Bunker discloses many well-known types of networks, including peer-to-peer and client/server network types (§14, ll. 14-16), a combination of local and wide area networks (§14, ll. 3-7), and a hybrid combination of physical and logical network constructions, the physical and logical network constructions including broadcast (radio wave) (§14, ll. 6-7), network bus, network ring, and logical star constructions (§14, ll. 10-11). One of ordinary skill in the art would have recognized that any or all of these well-known network types could have been used in place of the sub-networks taught by Wang. It would have been advantageous to do so since it would have provided consistent quality of service over those network types.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to request new programming for adapting the data upon detecting changes in QoS parameters as well as implementing a compression mechanism to reduce the size of a packet to be transmitted to prevent fragmentation, since these modifications would have ensured maximum bandwidth utilization, and to combine various network types to form a single heterogeneous network for communications.

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7. With regard to claims 9, 19 and 39, Wang disclosed adapting the data further comprises replicating the data (the content is never changed, just the form of the content changes).

8. With regard to claim 36, in addition to the limitations already addressed regarding claims 6 and 13, Wang further discloses translating a protocol of the data according to protocol requirements of the network segment (each segment has its own protocol stack)(col. 3, ll. 5-10)

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (US 6,693,912) in view of Bahadiroglu (US 2002/0186660) further in view of Huang (US 6,618,397) further in view of Bunker et al. (US 2003/0055594) further in view of Official Notice.

10. With regard to claim 10, while the system disclosed by Wang, Bahadiroglu and Huang shows substantial features of the claimed invention (discussed above), it fails to specifically disclose transmitting the quality of service parameters from the device to a network administrator.

The Examiner takes Official Notice that it was widely known in the art at the time of Applicant's invention to transmit the parameters of networking devices on a network to the administrator of that network so that the administrator can monitor, repair, and configure the network as needed.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to transmit the parameters to a network administrator to permit monitoring, repair and reconfiguration of the network as needed.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON STRANGE whose telephone number is (571)272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron Strange/
Examiner, Art Unit 2153